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SIPDIS

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SUBJECT: AUSTRIA: SEVENTH ANNUAL TRAFFICKING IN PERSONS (TIP)  
REPORT

REF: STATE 202745

11. Entire cable is sensitive but unclassified; please treat accordingly.

12. Below please find Embassy Vienna's submission for the seventh annual TIP report. Responses are keyed to reftel.

BEGIN TEXT:

127. OVERVIEW

#### 1A. Austria as a Country of Transit and Destination

Police, Ministry of Interior Officials and non-governmental organizations (NGOs) confirm that Austria is both a transit and destination country for trafficked persons. Police say that it is unclear exactly how many victims there are in Austria, as many are never identified or do not identify themselves as trafficked victims. Many remain hidden from law enforcement authorities. The International Organization for Migration (IOM) estimates there are 7,000 victims in Vienna alone, while the OSCE Task Force on Trafficking estimates around 4,000.

Austria is a transit and destination country for trafficked victims. Police estimate that the final destinations for many of these victims are other EU countries, especially Italy, France, and Spain. Austria is also a country of destination for traffickers and victims. In recent years, Austria has seen a marked demographic shift in women trafficked into prostitution. Until the late 1980s, most trafficked women came from Latin America and Asia. Since the early 1990s, victims have originated almost exclusively from Eastern Europe. Officials believe that trafficked persons come primarily from Romania and Bulgaria, as well as countries of the former Soviet Union, such as Moldova and Ukraine.

Primary trafficking routes include a southern route from the Balkans to Vienna and on to Italy and Germany; a northern route from Prague to Linz and Vienna; and an eastern route from Russia, Ukraine, and

Romania. Police have further identified patterns in African women being brought through Spain and Italy and then asking for asylum in Austria.

Vienna is the largest urban center in Austria and has experienced the bulk of trafficking cases. Trafficking is also a problem in other urban centers, such as Graz, Linz, Salzburg, and Innsbruck. Furthermore, police noted a problem in smaller towns in Carinthia and in Wels, Upper Austria. Police think that trafficking is a problem throughout the country, due to the flexibility of the trafficking network and the desire for "new" prostitutes.

Trafficking in children, primarily from Bulgaria, decreased substantially in 2006, due to Austrian assistance to Bulgaria in setting up three crisis centers for trafficked children in Bulgaria. In 2005, roughly 700 Bulgarian children, mostly Roma girls, were trafficked to Austria. The flow of Bulgarian children into Austria stopped in 2006. Since October 2006, City of Vienna authorities have not identified any Bulgarian children trafficked to Austria. In 2007, the City of Vienna will assist Bulgaria in setting up four additional crisis centers.

#### B. General Overview and Changes Since Last Report

Austria's role as EU President during the first half of 2006 helped to keep the trafficking issue in the public eye. There was also extensive media reporting on trafficking cases in Austria, as well as the problems of the countries of origin of trafficking victims.

The issue also has prominence in the political sphere. The Social Democratic Party (SPO), now the senior partner in a coalition government, called for fines for clients of trafficking victims, if they are aware that the prostitution was forced, with the money

going to institutions which care for trafficking victims. On the occasion of Austria's ratification of the Council of Europe anti-trafficking convention in June 2006, the SPO urged additional measures to protect trafficking victims. These measures included granting a period of 30 days during which victims receive psychological and social assistance, but do not have to testify. Under the proposal, victims who testify would have a claim to a residence permit, as well as permission to work, and health insurance. Furthermore, names and addresses of victims would not be available to the accused and their lawyers during criminal procedures. There would also be additional measures in victims' home countries to facilitate their return. The SPO has also called for more specially trained law enforcement and judicial personnel, and for more financial and human resources for organizations providing counseling to victims of trafficking. Finally, the SPO has also suggested the introduction of a new regulation prohibiting the facilitation of trafficking, as exists under German criminal code provisions. When Maria Berger became Justice Minister in January 2007, she pledged to make the fight against trafficking one of her priorities.

In March 2006, the Austrian EU Presidency organized a seminar to provide training to law enforcement officials from 42 countries. Focus areas included improving interrogation skills in detecting trafficking victims and providing care to victims.

C. Overall, there is sufficient funding for the government's anti-trafficking efforts. NGO's offering assistance to victims deplore financial shortcomings, though.

#### 28. PREVENTION

##### A. Acknowledgment of the Problem

The government recognizes trafficking in persons as a problem and is committed to combating this phenomenon. The Interior Ministry works at the national and international level to raise awareness of human trafficking.

##### B. Government Agencies

The Ministry of Interior is the primary government agency involved in anti-trafficking efforts. The Ministry of Foreign Affairs

coordinates overall GOA efforts through its leadership of the Inter-ministerial Task Force. At the local level, police are responsible for enforcement of violations of the criminal code and have the most day-to-day contact with victims.

#### 1C. Anti-Trafficking Campaigns

The Federal Chancellery, the Austrian Broadcasting System (ORF), and the Vienna Film Fund, have subsidized a documentary on trafficking.

#### 1D. Other Programs

The government funds NGOs to provide services to victims and to conduct studies of the problem. The Ministry of Justice regularly holds training seminars for police, prosecutors, and judges to educate them on and sensitize them to trafficking issues.

The City of Vienna provides Euros 100,000 to finance projects in Southeastern and Eastern Europe to combat trafficking. The Vienna Social Democratic Party's women's organization, in cooperation with the charity organization CARE, sponsored a project in Bulgaria focusing on the prevention of trafficking in women and girls. The Austrian Development Agency is also seeking to finance projects focused on anti-trafficking, as well as other human rights issues, in Southeastern Europe, Eastern Europe, and Central Asia. In June 2006, Austrian Development Assistance (OEZA), an Austrian government initiative, extended its contract to finance a women's shelter in Belgrade for another three years for Euros 214,000.

The Catholic charity Caritas, in cooperation with Austrian business enterprises and the Austrian broadcasting system ORF, ran a campaign collecting donations for projects in Moldova to provide computer, sewing and hairdresser training courses for young girls to provide employment opportunities.

The Economics Ministry, together with the European Social Fund, is sponsoring a newly-founded association, called "Sophie." This association offers computer and German-language courses for sex workers, as well as counseling for prostitutes who would like to quit prostitution. "Sophie" also organized conferences to provide information on its work and to discuss the issue of prostitution.

In the framework of its Southeastern European science cooperation initiative, the Science Ministry funded the project 'Gendered Migration, Sex Work and Exploitation: Trafficking in Women and Prostitution,' conducted by the Institute for Human Sciences.

#### 1E. Relationship Between the Government and NGOs

The government works with NGOs to combat trafficking. Both the police and NGOs confirm that cooperation, based on mutual respect, is generally good and routine.

#### 1F. Monitoring of Borders and Immigration Patterns

Austria has strong border control policies. However, due to its geographic location, it is a natural conduit for illicit activity into western Europe. Ministry of Interior officials say the border police are continually intensifying efforts to strengthen Austria's borders. Border officials screen for potential trafficking victims.

#### 1G. Intergovernmental and International Coordination

The Interior Ministry focuses on the creation of policy goals for combatting trafficking. The Federal Bureau for Criminal Affairs, along with local police forces, deals with the operational side of investigating and arresting traffickers. There is good coordination between these bodies.

The Inter-ministerial Task Force on Trafficking in Human Beings continues to meet quarterly. It includes representatives from the Ministries of Health, Women's Affairs, Interior, Economics and Labor, Social Affairs, and Justice. Representatives from the NGO LEFOE/IBF and the Organization for Security and Cooperation in

Europe's (OSCE) Taskforce on Trafficking also participate.

Ministry of Interior Officials and members of the Federal Bureau for Criminal Affairs establish contacts with authorities in countries of origin to facilitate the prosecution of suspected traffickers and the disbanding of trafficking rings. At the EU level, Austria worked with the European Union to focus attention on trafficking. Austria has harmonized its anti-trafficking legislation within the EU legal framework. The government also works closely with INTERPOL.

#### 1H. National Plan of Action

The Task Force on Trafficking in Human Beings is currently developing a National Plan of Action and expects to begin implementation in Spring 2007.

### 129. INVESTIGATION AND PROSECUTION OF TRAFFICKERS

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#### 1A. Legal Provisions

There is no single law covering all forms of trafficking in persons.

Article 217 of the Austrian Criminal Code, amended in January 1999, and Article 104a of the Criminal Code, which went into effect in May

2004, are the key provisions for the prosecution of traffickers. Paragraph 1 of Article 217 prohibits "border-crossing trafficking for the purpose of prostitution." Paragraph 1 refers to inducing or recruiting aliens for prostitution. Paragraph 2 of Article 217 covers trafficking for prostitution through the deception regarding the purpose of journey to Austria or through coercion or use of force. Article 104a prohibits trafficking for the purpose of sexual exploitation, exploitation of human organs, or labor exploitation.

Article 104 of the Criminal Code deals with trafficking for the purposes of slavery. Because it is difficult for prosecutors to prove that traffickers duped their victims or forced them into a dependency situation, especially when the victims are not willing to testify in court, Articles 217 and 104 of the Criminal Code are rarely used.

Article 114 of the Aliens Police Act of 2005 (previously Article 104 of the Aliens Act) Act also contains criminal-law provisions on alien smuggling. The Ministry of Interior believes most traffickers are prosecuted under this section of law because facilitation of illegal entry is easier to prove than trafficking and does not require the testimony of victims. With Article 116, the Aliens Police Act also contains a criminal law provision generally prohibiting the exploitation of aliens (previously Article 105 of the Aliens Act).

Trafficking crimes involving death and extreme violence receive stronger penalties under Austrian law than ordinary trafficking violations. Penalties are at least as stringent as those for rape. Austria provides for sentences ranging in length based upon the seriousness of the crime and the previous record of the accused. Punishment for trafficking is in line with other sentences for serious crimes under Austrian law.

NGOs have criticized police for not devoting enough resources to combat human trafficking. Police counter that it is difficult to enforce trafficking laws without witnesses willing to testify against perpetrators.

#### 1B. Penalties for Trafficking People for Sexual Exploitation

Punishment under Article 217 of the Criminal Code results in sentences from six months to 10 years. Article 104a also provides for sentences up to 10 years. Article 104 of the Criminal Code requires sentences ranging from 10 to 20 years. Article 114 of the Aliens Police Act provides for sentences of up to 10 years for persons convicted of alien smuggling. Article 116 provides for sentences of up to three years for persons who exploit aliens, and under special circumstances, such as the death of the victim, of up to 10 years.

C. Punishment of Labor Trafficking Offenses: As indicated in para A., Article 104a also applies for trafficking for the purpose of labor exploitation, and prescribes sentences of up to 10 years.

D. Rape: Article 201 of the criminal code provides for imprisonment of six months to 10 years for convictions for rape. Under specific circumstances such as torture, sentences can reach 15 years. In cases leading to the death of victims, sentences can reach 20 years.

#### E. Prostitution

Prostitution is legal in Austria and regulated at the state level. The law requires prostitutes to undergo mandatory health checks, register with authorities, and pay taxes. Prostitutes are covered by the health system. Prostitutes who do not conform to these requirements are subject to prosecution. The legal minimum age in all states is 18. There are 700 legal brothels in Austria and up to three times as many illegal ones. Approximately 500 women are registered as prostitutes in Vienna. The Ministry of Interior and state health authorities monitor the activities of the legal

bordellos.

#### F. Prosecution of Traffickers

In 2006, 86 cases against suspected traffickers were filed under Article 217 (cross-border trafficking for the purpose of prostitution), while 7 were filed under 104a of the Criminal Code (trafficking). 3,086 cases were filed under Article 114 of the Aliens Police Act (smuggling of aliens). 8 cases were filed under Article 116 of the Aliens Police Act (exploitation of an alien). No cases were filed under Article 104 of the Criminal Code (slavery). For 2005, the number of convictions included: 25 convictions under 217 Criminal Code; 369 convictions under Article 104 of the Aliens Law; and five convictions under Article 105 of the Aliens Law. There were no convictions under Article 104a of the Criminal Code.

Of the 128 suspects in the 86 cases filed under Article 217 of the Criminal Code in 2006, 60 were Austrian citizens and 68 foreigners, of whom a large portion (21) were Romanians, followed by Hungarians and Nigerians. All 9 suspects were Austrian citizens in the 7 cases filed in 2006 under Article 104a of the Criminal Code.

In the 86 cases filed under Article 217 of the Criminal Code in 2006, of the 80 victims, there were 6 Austrians and 74 foreigners, 25 of whom were Romanian, followed by 12 Nigerians and 7 each from the Dominican Republic, Slovakia and Hungary. In the 7 cases filed under Article 104a of the Criminal Code in 2006, of the 10 victims, 4 were Austrians, 6 were foreigners - 5 Croatian and 1 Macedonian.

#### G. Perpetrators

The police have caught both Austrian and foreign traffickers. Police believe that organized crime groups, mainly from Eastern Europe, control a large portion of trafficking in Austria. Police are aware of cooperation between domestic and foreign pimps to organize the transfer of prostitutes from abroad to Austrian towns.

#### H. Investigation of Cases

The government investigates all cases filed. Investigations are the responsibility of police, who must balance resources for this and other types of crimes. Authorities may make use of special provisions in the Aliens Act to obtain residence permits for victims.

The press has reported on a number of high-profile trafficking cases over the past year.

In May 2006, police authorities arrested 16 Austrian, Romanian and Polish individuals, among them two Polish policemen, who were suspected of having trafficked 440 Polish and Romanian women to Austria for the purpose of prostitution.

In December 2006, a court in the state of Lower Austrian convicted the head of a Vienna escort service to a four-year prison sentence



on trafficking charges, following up on a November 2004 conviction on trafficking charges. The second accused individual in this case, the head of a Vienna night club, received a 3-year suspended sentence in December 2006. Police authorities are investigating several prominent clients of that ring, since some of the girls were under age (sex with minor prostitutes is punishable if the client knows that the girl is under age). Clients reportedly included high-ranking businessmen and lawyers.

#### I. Training

The police academy offers police cadets a one-day course on trafficking. The NGO LEFOE/IBF conducts seminars on trafficking for law enforcement officials.

In March 2006, the Austrian EU Presidency organized a seminar to provide training to law enforcement officials from 42 countries.

(see 27.B)

WEST INFO, an offshoot of the EU-funded program WEST (Woman East Smuggling Trafficking), produced improved materials for police training, including CD-Roms and videos. WEST INFO hopes that these materials will help the police not only to improve victim identification skills, but also to have a better understanding of the victims and their situations. WEST INFO is also preparing curricula for students pursuing social work degrees at the tertiary level.

#### J. Intergovernmental Cooperation

The government, at both the national and local levels, cooperates with authorities from other countries to investigate and prosecute trafficking cases. Cooperation with East European governments has been especially useful in prosecuting trafficking rings. Intensive cooperation with the new EU member states as well as with Belarus, Romania and Ukraine has produced successful in disclosing several cases. Austrian police authorities point to the EU's action plan against trafficking, in effect since December 2, 2005, as a key instrument to coordinate efforts.

#### K. Extradition

Alien trafficking is an extraditable offense. Under the European Extradition Convention of December 13, 1957, "extradition shall be granted in respect of offenses punishable under the laws of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty."

#### L. Government Involvement in Trafficking

There is no evidence of government involvement in or tolerance of trafficking on a local or institutional level. However, a Vienna court convicted the Vienna Chief of Police in September 2006 to a suspended three-month prison sentence on charges of disclosing law enforcement sensitive matters. The police chief, Ernst Geiger, was accused of having revealed the timing of a police raid to the owner of a Vienna brothel where the raid was to take place. The brothel owner is charged with illegal prostitution. Investigations are still ongoing in that case.

#### M. N/A

#### N. Child Sex Tourism

Under Austrian law, any citizen engaging in the sexual abuse of a child in a foreign country is punishable under Austrian law, even if the actions are not punishable in the country where the abuse was committed.

#### O. International Instruments

On December 4, 2001, the Austrian Government ratified ILO Convention 182, the Sale of Children Protocol, which supplements the Rights of the Child Convention. Austria had signed the Sale of Children Protocol on September 6, 2000. On June 7, 1960, the Austrian Government ratified ILO Convention 29. On March 5, 1958, the

Austrian Government ratified ILO Convention 105. On December 12, 2000, Austria signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the U.N. Convention Against Transnational Organized Crime. Parliament ratified the Protocol in June 2005. On July 12, 2006, the Austrian parliament ratified the Council of Europe Convention against Trafficking.

### 130. PROTECTION AND ASSISTANCE TO VICTIMS

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#### 1A. Immigration Assistance

Article 10(4) of the Aliens Act provides for temporary resident status for victims of human trafficking, as defined by Article 217 of the Criminal Code. Victims also have the possibility of continued residence if they meet criteria such as willingness and ability to integrate in Austria.

In 2005, the "Intervention Center for Victims of Trafficking" (IBF), run by the NGO LEFOE, provided counseling to 151 victims of trafficking. LEFOE/IBF provided shelter to 37 victims, who came primarily from Romania and Bulgaria. LEFOE/IBF's key concerns remain easier access to the labor market for trafficking victims and health insurance coverage. LEFOE/IBF reports that one-third of victims to whom they provided counseling were forced into work, while two thirds were forced into prostitution.

The Vienna Center for Unassisted Minor Aliens offers illegal minors legal, medical, and social assistance.

#### 1B. Funding for NGOs

The primary NGO dealing with trafficking in persons in Austria is LEFOE/IBF. LEFOE/IBF has a five-year mandate from the government for its activities, which the GOA regularly renews. The GOA must still approve its annual budgets. Each state has at least one women's shelter that provides assistance to battered women. Victims of trafficking are allowed to stay in such shelters.

#### 1C. Transfer of Victims

After police identify a victim of trafficking, they contact LEFOE/IBF and arrange for the victim to stay with them until the victim decides whether he or she would like to return to their home country or settle in Austria or elsewhere.

#### 1D. Rights of Victims

The law gives victims whom police identify as victims of trafficking full rights. Police and government officials generally respect these rights. Victims of trafficking are sometimes guilty of violating Austrian immigration and employment laws. Persons violating immigration laws are subject to deportation. Potential victims of trafficking who do not identify themselves as trafficked victims (or whom the police cannot identify as trafficked victims) are often deported. In cases where NGOs, police and the courts are aware of instances of trafficking, they can utilize provisions in the immigration law to allow victims to remain in Austria in order to testify against traffickers. At times, however, victims are in Austria legally and do not wish to return to their home countries.

The Interior Ministry grants residence permits to victims of trafficking based on Paragraph 10(4) of the Aliens Act. This paragraph describes residence permits for humanitarian reasons in general and does not specifically refer to victims of trafficking.

#### 1E. Legal Action Against Traffickers

The government encourages victims to assist in the investigation and prosecution of trafficking. Victims may file civil suits or seek legal action against traffickers. Austrian immigration law allows for the issuance of temporary residence permits for victims of trafficking. LEFOE/IBF provides legal assistance for victims.

#### 1F. Protection for Victims and Witnesses

LEFOE/IBF provides secure housing and other support for victims of

trafficking while in Austria. IOM seeks to put victims in contact with NGOs in their home countries upon their return. The police and Ministry of Interior Officials have established relationships with their counterparts in countries of origin to assist victims and assist prosecution of traffickers.

#### G. Training for Assistance to Trafficked Individuals

Training is provided to police on trafficking in persons and the needs of victims. (See section 29-I)

#### H. Government Assistance

Victims of trafficking in Austria have access to the Austrian social system.

LEFOE/IBF, which the Government funds, provides secure housing for trafficking victims. (Please see paragraph below for more details.) The City of Vienna also operates a shelter for minors who are illegal aliens called the Vienna Center for Unassisted Minor Aliens.

#### I. NGO Assistance

LEFOE/IBF is the primary NGO in Austria dealing with victims of trafficking. Although the group's initial focus upon its creation in 1985 was in counseling and educating immigrant women from Latin America, it has since expanded to help female victims of trafficking from all nations.

LEFOE/IBF also provides psychological, legal, and health-related counseling and assistance, emergency housing, and German language courses. LEFOE/IBF workers will also assist victims to prepare for court proceedings against traffickers. LEFOE/IBF assists victims in returning to their country of origin, including liaising with counseling centers in these countries to ensure that victims receive services upon return.

Outside of Vienna, the "Independent Integration Center for Immigrants" in Linz provides counseling for trafficked women. Innsbruck, Salzburg, Graz, Klagenfurt and St. Poelten provide assistance to trafficked women through their intervention centers for domestic abuse. Federal and local governments finance these intervention centers. The Boltzmann Institute for Human Rights conducts research on the issue of trafficking. IOM is also active in Austria and has conducted several studies of trafficking.

NGOs report generally good relations with authorities. However, NGOs continue to press for better enforcement of existing legal provisions and further training of officials in order to increase awareness and sensitivity of the problem of trafficking.

END REPORT

13. Post has no nominations for Heroes or Best Practices at this time. Preparation time: FS-01: 2 hours; FS-04: 40 hours; FSN-11: 40 Hours. Post Point of Contact for the TIP Report is Economic-Political Officer Michael Spring, Tel +43 (1) 31339-2398, Fax +43 (1) 31339-2916.